

§ 1718.100

7 CFR Ch. XVII (1-1-01 Edition)

real, personal or mixed, tangible and intangible, of the kind or nature specifically mentioned herein or any other kind or nature, except any Excepted Property set forth on Schedule "C" hereof owned or hereafter acquired by the Mortgagor (by purchase, consolidation, merger, donation, construction, erection or in any other way) wherever located, including (without limitation) all and singular the following:

A. All of those fee and leasehold interests in real property set forth in Schedule "B" hereto, subject in each case to those matters set forth in such Schedule; and

B. All of those fee and leasehold interests in real property set forth in Schedule "B" of the Original Mortgage or in any restatement, amendment or supplement thereto, subject in each case to those matters set forth in such Schedule; and

C. All of the kinds, types or items of property, now owned or hereafter acquired, described as Mortgaged Property in the Original Mortgage or in any restatement, amendment to supplement thereto as Mortgaged Property.

It is Further Agreed and Covenanted That the Original Mortgage, as previously restated, amended or supplemented, and this Supplement shall constitute one agreement and the parties hereto shall be bound by all of the terms thereof and, without limiting the foregoing.

1. All capitalized terms not defined herein shall have the meaning given in Article I of the Original Mortgage.

2. This Supplemental Mortgage is one of the Supplemental Mortgages contemplated by Article II of the Original Mortgage.

In Witness Whereof, \_\_\_\_\_ as Mortgagor.

[ACKNOWLEDGEMENTS]

SUPPLEMENTAL MORTGAGE SCHEDULE A—  
MAXIMUM DEBT LIMIT AND OTHER INFORMATION

1. The Maximum Debt Limit is \_\_\_\_\_.

2. The Original Mortgage as described in the first WHEREAS clause above is \_\_\_\_\_.

3. The outstanding secured indebtedness described in the third WHEREAS clause above is \_\_\_\_\_.

SUPPLEMENTAL MORTGAGE SCHEDULE B—  
PROPERTY SCHEDULE

The fee and leasehold interests in real property referred to in clause A of the granting clause are \_\_\_\_\_.

SUPPLEMENTAL MORTGAGE SCHEDULE C—  
EXCEPTED PROPERTY

[60 FR 36888, July 18, 1995, as amended at 60 FR 67410, Dec. 29, 1995; 65 FR 51749, Aug. 25, 2000]

**Subpart C—Loan Contracts With  
Distribution Borrowers**

SOURCE: 60 FR 67410, Dec. 29, 1995, unless otherwise noted.

**§ 1718.100 General.**

(a) *Purpose.* The purpose of this subpart is to set forth the policies, requirements, and procedures governing loan contracts entered into between the Rural Utilities Service (RUS) and distribution borrowers or, in some cases, other electric borrowers.

(b) *Flexibility for individual circumstances.* The intent of this subpart is to provide the flexibility to address the different needs and different credit risks of individual borrowers, and other special circumstances of individual lending situations. The model loan contract contained in Appendix A of this subpart provides an example of what a loan contract with an "average" or "typical" distribution borrower may look like under "average" or "typical" circumstances. Depending on the credit risks and other circumstances of individual loans, RUS may execute loan contracts with provisions that are substantially different than those set forth in the model. RUS may develop alternative model loan contract provisions. If it does, such provisions will be made available to the public.

(c) *Resolution of any differences in contractual provisions.* If any provision of the loan contract appears to be in conflict with provisions of the mortgage, the loan contract shall have precedence with respect to the contractual relationship between the borrower and RUS with respect to such provision. If either document is silent on a matter addressed in the other document, the other document shall have precedence with respect to the contractual relationship between the borrower and RUS with respect to such matter.

(d) *Certain loan contract provisions subject to subsequent rulemaking.* If a loan contract provision imposes an obligation or limitation on the borrower whose interpretation or specification is subject to RUS regulations or the discretion of the Administrator or RUS, such interpretation or specification

shall be subject to subsequent rule-making. Such interpretation or specification of the borrower's obligations or limitations may not exceed the authority granted to the Administrator or RUS in the loan contract provision.

#### § 1718.101 Applicability.

(a) *Distribution borrowers.* The provisions of this subpart apply to all distribution borrowers that obtain a loan or loan guarantee from RUS approved on or after January 29, 1996. Distribution borrowers that obtain a lien accommodation or any other form of financial assistance from RUS after January 29, 1996, may be required to execute a new loan contract and new mortgage. Moreover, any distribution borrower may submit a request to RUS that a new loan contract and new mortgage be executed. Within the constraints of time and staff resources, RUS will attempt to honor such requests. Borrowers must first obtain the concurrence of any other mortgagees on their existing mortgage before a new mortgage can be executed.

(b) *Other borrowers.* Borrowers other than distribution borrowers may also submit requests for execution of a new loan contract pursuant to this subpart and a new mortgage pursuant to subpart B of this part. RUS may approve such requests if it determines that such approval is in the government's financial interest. If other mortgagees are on the borrower's existing mortgage, their concurrence would be required before a new mortgage could be executed.

#### § 1718.102 Definitions.

For the purposes of this subpart:

*Borrower* means any organization that has an outstanding loan made or guaranteed by the Rural Utilities Service (RUS) or its predecessor, the Rural Electrification Administration, for rural electrification, or that is seeking such financing.

*Distribution borrower* means a borrower that sells or intends to sell electric power and energy at retail in rural areas, the latter being defined in 7 CFR 1710.2.

*Loan documents* means the mortgage (or other security instrument acceptable to RUS), the loan contract, and

the promissory note entered into between the borrower and RUS.

#### § 1718.103 Loan contract provisions.

Loan contracts executed pursuant to this subpart shall contain such provisions as RUS determines are appropriate to further the purposes of the RE Act and to ensure that the security for the loan will be reasonably adequate and that the loan will be repaid according to the terms of the promissory note. Such loan contracts will contain provisions addressing, but not necessarily limited to, the following matters:

(a) Description of the purpose of the loan;

(b) Specification of the interest to be charged on the loan, including the method for determining the interest rate if it is not fixed for the entire term of the loan;

(c) Specification of the method for repaying the loan principal, including the final maturity of the loan;

(d) The conditions under which the loan may be prepaid before its maturity date, including but not limited to requirements regarding the prepayment of loans made concurrently by RUS and another secured lender;

(e) The method for making scheduled payments on the loan;

(f) Accounting principles and system of accounts, and RUS authority to approve the accountant used by the borrower;

(g) The method and time period for advancing loan funds and the conditions precedent to the advance of funds;

(h) Representations and warranties by the borrower as a condition of obtaining the loan, including but not limited to: the legal authority of the borrower to enter into the loan contract and operate its system; that the loan documents will be a legal, valid and binding obligation of the borrower enforceable according to their terms; compliance of the borrower in all material respects with all federal, state, and local laws, regulations, codes, and orders; existence of any pending or threatened legal actions that could have a material adverse effect on the borrower's ability to perform its obligations under the loan documents; the